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# The Solicitors' Journal

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# The Solicitors' Journal

(ESTABLISHED 1857.)

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## Current Topics.

### Motor Taxation Offences.

THE DIFFICULTIES of protecting the Revenue, and at the same time safeguarding the liberties of the subject, are shown by a case at Ellesmere recently. Two general dealers were separately charged with using two lorries, licensed for goods only, for the purpose of carrying passengers at Sparbridge on 13th April. Under the Finance Act, 1922, s. 14, if a vehicle is used for a purpose which brings it within a class to which a higher duty is applicable, the person so using the vehicle is liable to a penalty of either (*a*) three times the difference between the duty paid and the rate chargeable, or (*b*) £20, whichever is the greater. Under the Roads Act, 1920, s. 8 (2), employees of the person keeping the vehicle may be conveyed in the course of their employment in a vehicle used for the carriage of goods in the course of trade. The case for the Shropshire County Council was that the lorries were licensed for goods only, whereas on the date alleged there were six passengers (including the driver) in the first lorry, and five in the second. The defendants were brothers, who were being driven by their sons, and the driver of the second lorry, the son of the younger defendant, was questioned by the police. His first statement was that they had been out on business, but later he admitted that they had been to Bangor-on-Dee races. The elder defendant, who pleaded not guilty, said there were only three persons in the second lorry—himself, his nephew and his son—and he only went to the races to do business among the farmers. The younger defendant's case was that in the first lorry there were himself, two sons, a workman and two women, who were employees and not passengers. He also went to Bangor hoping to see people with whom to do business. The defendant denied that he was using the lorry as a hackney carriage, and asked whether he could not take his wife with him if he wanted to do business. Corroborative evidence was given by the defendants' sons, the respective drivers, but the bench imposed a fine of £3 in each case.

### A Bequest to Benefit Animals.

IN *Re Grove-Grady*: *Plowden* v. *Lawrence*, reported in *The Times* of 1st inst., ROMER, J., held that a gift by will for the provision of refuges for "all animals, birds, or other creatures not human," and kindred objects, was a good charitable bequest. Gifts for homes for animals useful to man were held to be charitable in *London University* v. *Yarrow*, 1857, 1 De G. & J. 72, and gifts for the prevention of cruelty to animals generally in *Re Douglas*, 1887, 35 C.D. 472, and *Re Foveaux*, 1895, 2 Ch. 501. A gift for the "protection and benefit of animals" was held by the Court of Appeal to be a valid charity in *Re Wedgwood*, 1915, 1 Ch. 113, in the face of the argument that animals noxious to mankind might be included in the bounty, thus preventing the purpose of the bequest being necessarily public and beneficial. This argument was considered and disapproved by KENNEDY, L.J., see p. 121, a disapproval which, as ROMER, J., pointed out, was binding on him when the argument was repeated in the present case. Mrs. GROVE-GRADY required that the trustees of the bequest should "be and always have been" anti-vivisectionists and opponents of blood-sports, and it was also ingeniously urged that no one could truthfully declare that he was so qualified. ROMER, J., however, took the view that, as a matter of common sense, the inquisition as to a candidate's views was not to be carried back to the cradle, but applied only to years of discretion. On this interpretation, it should not be difficult to find trustees from members of the families of prominent anti-vivisectionists, even if the conversion of the latter had been subsequent to adolescence. In *Re Verrall*, 1916, 1 Ch. 100 (the *National Trust Case*), ASTBURY, J., held that a trust for (*inter alia*) a "nature reserve," preserving, so far as possible, animal and plant life, was charitable. Kindness to animals, even those which may be harmful or dangerous to mankind, as some are, or cruel to other animals, as many of the highest are, is essentially charitable, and the above decisions bring the letter of the law into accord with its spirit. As to preserving the balance of nature in animal sanctuaries, we may perhaps refer to the final paragraph of our article on "Country-Planning," pp. 460-461. For the preservation of a rare species of animal, or even plant, it might be necessary to destroy numbers of more common species engaging in preying on and exterminating the rarer one, and such destruction would be in entire accordance with the wiser or wider humanity. And, indeed, pests and parasites do not require the provision of refuges; they are all too capable of finding them *mero motu*.

### Precautions for Yachtsmen.

AN OLD principle, which is equally applicable to pleasure craft, has been re-stated as between commercial vessels in the case of *The Harkaway*, 44 T.L.R. 649. That vessel was proceeding at low tide up the River Medina from Cowes to Newport, Isle of Wight, when she bumped into an obstruction and sustained so much damage that she sank. When the tide had ebbed her captain found on the port quarter, about 18 inches away, an anchor belonging to the barge "Louisa," which was aground on the mud about 90 feet away. Mr. Justice BATESON held that the owners of the "Louisa" were liable for the damage to the "Harkaway," and that the action was really undefended. Nevertheless, liability was strenuously denied, and for the defendants it was pointed out (1) that no bye-law had been made with regard to this matter; and the question was asked (2) what is to happen when these things take place at night? The learned judge observed as regards (1) that no bye-law is required to prevent people from being negligent, which is a matter of common law; and that as regards (2) he would direct his attention to that case when it arises. The judgment also referred to a case decided in 1663,

in which it was laid down that it was neglect to leave an anchor in a navigable river without a buoy. In Marsden's "Collisions at Sea" (7th ed.), at p. 105, it is stated: "Before the days of floating docks, damage to ships by grounding upon unbuoyed anchors in the Thames and elsewhere was a very frequent cause of action. The ship whose anchor was unbuoyed was invariably found in fault." In the above-named case the learned judge agreed that vessels have a right to put an anchor down, but said that they have no right to obstruct any navigable water, and if they do put an anchor down they ought either to give a warning or use an anchor which does not stick up. While this may add a little to the care required, the number of places in which it would be required is not great, and the time during which there is any danger from an anchor is very limited. It is to be noted that at the time of the above accident the "Harkaway" was drawing 5 feet 3 inches aft, and had a depth of about a foot of water under her.

### The Law of a Falling Tree.

THE RECENT action of *George & Matthews* v. *Lawrence* originated in circumstances very similar to those considered in *Noble* v. *Harrison*, 1926, 2 K.B. 332. The responsibility for an accident due to the fall of a bough or a tree was at issue in each case, but whereas in *Noble* v. *Harrison* the question arose between a landowner and the proprietor of a vehicle on a road, which was struck by an overhanging bough suddenly breaking off and falling on it, *George & Matthews* v. *Lawrence* was a workmen's compensation case. Here the plaintiff was the widow of a commercial traveller, who, riding on his motor-cycle on business of the defendants, was struck over and killed by a tree, uprooted by a gale then blowing. In the former case the branch had a defect which made it liable to fall at any time, and in fact it fell in fine and calm weather. This defect was not discoverable by any reasonable and careful inspection, so negligence was ruled out. In the latter, the accident was due to the gale, which might be regarded as *vis major* or act of God. The circumstances in which compensation can be claimed for injuries arising from such a cause are explained in *Andrew* v. *Failsworth Society*, 1904, 2 K.B. 32, when a workman was struck by lightning and killed, his employment exposing him to special risk. Had it not done so, the accident would have been one, not arising out of the employment, but inherent to the risk of living. In *Dennis* v. *White*, 1917, A.C. 479, it was held that a workman sent into the streets on his employer's business was within the Acts, and the two latter cases would appear to support the present decision. The Master of the Rolls, in a dissenting judgment, said that, since the deceased chose his own means of locomotion, he was at the place where he was killed of his own freewill, and not because of any order or direction of his employers. A similar argument, however, would have been applicable if he had been killed in a railway or aeroplane accident, or while walking, and, pushed to a logical conclusion, would appear to exclude compensation to any employed traveller or driver whose route was not exactly mapped out beforehand by his employers. It may seem indeed strange that a period of twenty years should elapse between the passing of the first Act and the ruling in *Dennis* v. *White*, *supra*, that persons whose employment takes them on a public road are within the Acts if there injured.

### Deduction of Tax.

SOME DIFFICULTY is being experienced by practitioners at the present time on the question as to whether a company is entitled to deduct tax from its dividends in a year in which it is actually paying no income tax, or where the amount of the profits for taxation are less than the figure from which tax has to be deducted. This is a position liable to occur in the case of companies carrying on the business of poultry farming, which is assessable under Sched. B as husbandry, following the cases of *Lean* v. *Ball*, 10 T.C. 341, and *Jones* v. *Nuttall*, 10 T.C. 346; 42 T.L.R. 384. The matter seems sufficiently clear from the wording of r. 20 of the Rules applicable to all schedules: "The profits or gains to be charged on any body of persons shall be computed in accordance with the provisions of this Act on the full amount of the same before any dividend thereof is made in respect of any share right or title thereto, and the body of persons paying such dividend shall be entitled to deduct the tax appropriate thereto." This rule definitely entitles the payers to deduct tax, and no mention is made that the exact profits which are to be distributed shall have been brought into charge to tax. Therefore, it follows that in any particular year a company has to pay tax on its statutory income, while the actual profits may be either greater or less; so that the shareholders may receive no dividend in a year in which considerable tax has to be paid, and *vice versa*. A dividend is not an annual payment so as to be brought within the scope of rr. 19 and 21 of the Rules applicable to all schedules, and, therefore, the rules as to deduction of tax from dividends are not affected by the *Metropolitan Water Board* decision, nor is the company made liable to account for the tax so deducted. The matter is of principal importance to shareholders who are entitled to repayment in respect of the tax deducted from dividends, and this entitlement arises from the legal right of deduction granted to the company and from the general scheme of securing the revenue by deduction of tax at the source.

### The Right to Risk Danger.

IN A report from America, it was stated that someone caused a huge rubber globe of twelve foot diameter to be manufactured with a hollow space of six foot diameter in the middle, and, presumably, arrangements for entrance and exit. He then brought it above the falls of Niagara, crawled into it, and procured his friends to set it floating in the river current, when it duly descended the falls and was ultimately towed to the Canadian shore by a man deputed to that end. The report stated that, had the adventurer been landed on the American shore, he would have been arrested. The State of New York, which borders the rapids, may have some law to forbid anyone from, in colloquial language, "monkeying with" the majestic falls or the river St. Lawrence; but the English policeman and magistrate might be left in some puzzle. Attempted suicide implies the felonious intention of self-murder; here the man who conceived the plan and carried it out, obviously took all precautions to preserve his life, consistently with success in his design. Even the old common law offence of self-maiming, or doing any act whereby the agent might be rendered less fitted to serve King and country, implied intent, and the intent was again to descend the falls with the minimum of physical harm. The man of course recklessly risked his life, to an end which could apparently serve no useful purpose whatever, and there might be a general feeling that such an act, done deliberately, merited punishment. The difficulty, however, arises in framing the offence. In the pioneer days of motoring and aviation, men gave their lives in sheaves in the reckless use of imperfect machines. Yet each apparently useless sacrifice taught the survivors where danger lay, and how to avoid it. And what could have been more reckless than to sail westward across the Atlantic, in ignorance, not only of the other side, but whether there was another side or not? It may be said that such risks were usefully taken—but they would not have been so if motoring and aviation had proved too dangerous for practical use, or the Atlantic had been an infinitely open sea. And, of course, a law forbidding men to risk their necks, under pain of fine and imprisonment, could do no more than cause amusement in the breasts of those against whom it was aimed. Readers of "Misleading Cases" may remember that of the man who dived off Hammersmith Bridge during a regatta, and the difficulty of bringing a charge against him. The magistrate then solemnly rebuked the prisoner for committing an offence which a policeman could not easily recognise as such, and the fooling is so well done that the reader rather sympathises with him.

# The Compensation of Major Murray.

THIS matter gives rise to some interesting legal questions, which, without going into the facts upon their merits, we are about to discuss.

A sum of £500 has been paid to Major MURRAY, described in the Home Secretary's letter to him of the 26th May, as "an *ex gratia* grant," "out of the Metropolitan Police Fund." In his reply, Major MURRAY accepted this payment "on account."

Questioned in the House of Commons on the 14th June as to the authority for this payment, the Home Secretary replied: "This grant was made as a police expense by my authority."

Question: "Are we to take it that there is statutory authority under this Act for a grant by the Home Secretary?"

Answer: "I think so. At all events, I have made the grant, and, of course, it is open to the Public Accounts Committee to surcharge me if it is wrong."

"This Act" is not cited by the questioner, but the enactment referred to appears clearly from the context to be s. 12 of the Metropolitan Police Act, 1829, which by later provisions has to be read with the Metropolitan Police Act, 1839, and other statutes.

Section 12 gives power to the "Receiver for the Metropolitan Police District" to pay salaries and wages, rewards and pensions, and concludes, "and he shall also pay all other charges and expenses which such principal Secretary of State shall direct to be paid for carrying this Act into execution."

The payment claimed to be made by the authority of this enactment is obviously not a police charge or expense in the ordinary sense of the words, that is, something similar to wages or the cost of providing police stations. It is not a payment in compromise of an action or a threatened action. That is expressly disclaimed. It is a payment "of grace." "The respondent is quite open to take his case before a jury if he pleases," *vide* an answer of the Home Secretary in the House of Commons on the 12th June, 1928. It is not therefore a payment made under compulsion of law. In the last analysis it is a free gift made at the will of the giver, who determines the amount of the payment, the time of the payment, and the manner of making it; whether it will finally be held to come under the rubric, "charge or expense for carrying the Metropolitan Police Acts into execution" remains to be seen.

It appears from the Parliamentary Debates (14th June) that when asked if there are any precedents for such payments, the Home Secretary "indicated assent." To a friendly supplementary: "If there are no precedents, does not the right hon. Gentleman think it highly desirable that he should create them," he added "I have done so," thus leaving in doubt whether this is or is not the first of such payments to be borne by the Metropolitan Police Fund.

We know of no precedent for *ex gratia* payments from the Metropolitan Police Fund, which does not, of course, necessarily mean that none exist. In the *Beck Case* a grant of £5,000 was made by Parliament, duly included in the Civil Service supplementary estimates (see *The Times*, 22nd March, 1905), an unassailable method, but one involving Parliamentary discussion upon thorny topics.

Suppose a person in Major MURRAY'S position elects to sue for false imprisonment. It is the constable he must sue. The constable is the King's servant, and the maxim *respondeat superior* does not apply in the case of the Sovereign. The constable must answer for his own alleged misconduct.

In such a suit the whole matter may be re-opened. Neither an acquittal nor a conviction is a judgment *in rem*, nor are the parties the same. In criminal prosecutions on indictment the suit is at the instance of the Crown, and though it is sometimes said that this does not apply to prosecutions for offences punishable on summary conviction, it certainly seems to be that it does (see the case of *R.* v. *Truelove*, 1880, 5 Q.B.D. 336, cited and discussed 72 SOL. J. 441). There is a striking dictum of BANKES, L.J., in *Trebeck* v. *Crondace*, 1918, 1 K.B. 158, where a man acquitted of being drunk while in charge of a taxicab on the highway sued a constable for false imprisonment. The dismissal by the justices (an acquittal) "did not prevent the defendant" (the policeman) "from justifying the arrest upon the ground that the plaintiff was in fact drunk when arrested." This supports both the view that the acquittal is not conclusive against the world, and that the summary proceedings were at the suit of the Crown.

An interesting instance where the question guilt of or innocence was re-opened was the Eltham murder case in 1871. A man named POOK was indicted for and acquitted of the murder of a girl named JANE MARIA CLOUSEN. There was much difference of opinion as to the propriety of this verdict, and some letters appeared in the *Kentish Mercury* taking the view adverse to POOK. POOK sued the writer of the letters and the proprietress of the journal for libel. Sergeant PARRY appeared for the defendants and cross-examined POOK as to every detail of the crime and his alleged part in it, without interference by the court, though on the other hand he expressly told the jury that he did not ask them to believe POOK was the murderer. The judge, by the way, directed the jury that discussion of the question of the guilt or innocence of an acquitted person was perfectly legitimate, a view also expressed by Lord CAMPBELL, C.J., in *R.* v. *Palmer*, 1856, 5 E. & B., at p. 1029, and no doubt present to the minds of the legal members of the Street Offences Committee who conducted the enquiry into Major MURRAY'S case, though, if it were so present, it is not easy to understand why publication of their report on the case should be withheld.

That a verdict in a criminal case is not conclusive in proceedings between other parties is implied in a number of cases where it is held to be *primâ facie* evidence. Thus, in *In the estate of Crippen*, 1911, P. 108; 55 SOL. J. 273, Sir SAMUEL EVANS held that CRIPPEN'S conviction for murder was not merely admissible as proof of the conviction, but also as presumptive proof of his commission of the crime. In *O'Toole* v. *O'Toole*, 1926, 42 T.L.R. 245, proof of a man's conviction for perjury in falsely swearing that he had not had sexual intercourse with a certain woman was held to be *primâ facie* evidence of adultery. And in *Mash* v. *Darley*, 1914, 1 K.B. 1; on appeal, 3 K.B. 1226, it seems to have been considered that a conviction for carnal knowledge of a girl, if properly proved, might in some circumstances amount to corroboration of her evidence in an affiliation case.

The curious history of "appeals of murder" (as to which see "Stephen's History of the Criminal Law," Vol. I, p. 248), might seem to point the other way. Acquittal on the King's suit (by indictment) was a bar to the prosecution of an appeal (a private suit by a relative of the slain man), and the judges resolved to postpone all indictments for murder for a year and a day, to save the suit of the party; this was done, till by statute: 3 Hen. 7, c. 1, it was enacted that an acquittal on indictment should be no bar to the appeal. Appeals of murder were abolished in 1819, but their abolition does not affect the principle of law to which their prosecution was an exception. But here, the principle that a man shall not be put in peril twice for the same act comes into play. The plea of *autrefois acquit* was open to the alleged murderer, until it was statute barred.

There are numerous other cases affirming this principle. It obviously does not apply where there is no question of putting in peril, but merely of establishing the guilt of one man as the defence of another, without possibility of punishment if that guilt be so established. Of course, were there no principle of law at all as to not putting twice in peril, the first judgment would still operate to prevent such second putting in peril, if the King be, as we hold, always the prosecutor in criminal proceedings; for there would be a judgment between

the same parties; therefore conclusive in the second prosecuton (though the "private prosecutor" might be a different person in each case). Indeed, the not putting in peril principle can perhaps be regarded as a special case of the wider principle that a judgment between parties is binding on both in a subsequent suit, though not conclusive against the world.

There is another very formidable obstacle in the way of an action for false imprisonment against a constable. The plaintiff must show that the arrest was not in good faith upon reasonable grounds; and the defence of honest action on reasonable grounds (*Trebeck* v. *Crondace, supra*) is one far more likely to be raised, and to succeed, than one directed to proving the charge to be true in fact. But it is well for those called upon to advise persons desirous of taking actions against constables for false imprisonment to realise that the latter defence is open, for there might be cases where the re-opening of the whole issue is the last thing desired by the would-be plaintiff.

## A Conveyancer's Diary.

**Death Duties in respect of Undivided Shares:** *Re Wheeler*, 1928, W.N. 225.

Some time ago (see 71 SOL. J., 302) we drew attention to the claim that was being generally made by the Inland Revenue Authorities, that land subject to the statutory trusts, by reason of the existence of undivided shares, was to be regarded as personalty for the purposes of payment of death duties. This claim was based upon the pre-1926 practice, under which land, which before the deceased's death had become subject to an effective trust for sale, was treated as personalty for the purpose of the Finance Act, 1894, s. 6 (8).

We urged, however, that in view of the express provisions of the L.P.A., 1925, the pre-1926 practice was inapplicable to the statutory trusts arising by virtue of the L.P.A. Thus, s. 16 (4) of that Act provides that: "Nothing in this Act shall alter any duty payable in respect of land, or impose any new duty thereon, or affect the remedies of the commissioners of inland revenue against any person other than a purchaser or a person deriving title under him." Now "land" is defined in s. 205 (1) (ix) as including "land of any tenure . . ., but not an undivided share in land," but the definition has effect subject to any contrary intention appearing in the context. It seems clear that such a contrary intention is shown in s. 16 (4) (5).

The question recently came for decision before Tomlin, J., in *Re Wheeler*, 1928, W.N. 225. When that case was being argued it was stated that a similar point regarding undivided shares and the incidence of estate duty had been decided by Eve, J., in July, 1927, in an unreported case *Re Mellish*, 1927, M. 1674. Tomlin, J., examined the summons, evidence and order made in *Re Mellish*, and decided that the circumstances in *Re Wheeler*, were so like those considered by Eve, J. as to make the earlier decision an authority for him to follow.

The effect of the two cases is to show that the inland revenue claim (as we had argued) cannot be substantiated. But it seems to be a great pity that the learned judge did not indicate the reasons for his decision—other than the reasons "that one judge should follow the decisions of another judge of co-ordinate jurisdiction," and that "it is important to do so on matters of title and conveyancing . . . in order that . . . the advantage of uniformity may be secured . . ." Elegance and uniformity are important considerations but they are by no means the only or even the principal guides of conveyancers. A reasoned judgment in *Re Wheeler* would have served a most useful purpose as a guide to conveyancers in dealing with this particular question.

*Re Mellish* seems to be an authority also for the proposition that a devise by a testator, in a will executed before 1926, of an undivided share in land, is not adeemed by the conversion of that share into personalty by virtue of the transitional provisions of the new Acts.

## Landlord and Tenant Notebook.

**Decontrol: Recent Decisions of the Court of Appeal.**—(*Concluded.*)

In conclusion of our consideration of the effect of the decisions of the Court of Appeal in the five cases: *Lloyd* v. *Cook*; *Goudge* v. *Broughton*, *Simson* v. *Miatt*; *Bartram* v. *Brown*; and *Barker* v. *Hutson*, 72 SOL. J., pp. 532-534, we shall now deal with the remaining point arising in the above appeals.

While the principles that were previously considered concerned sub-s. (1) of s. 2 of the 1923 Act, the principle now to be considered concerns sub-s. (2) of that section, that sub-section being in the following terms: "Where at any time after the passing of this Act the landlord of a dwelling-house to which the principal Act applies grants to the tenant a valid lease of the dwelling-house for a term ending at some date after the 24th day of June, 1926, being a term of not less than two years, or enters into a valid agreement with the tenant for a tenancy for such a term, the principal Act shall as from the commencement of the term cease to apply to the dwelling-house and nothing in the principal Act shall be taken as preventing or invalidating the payment of any agreed sum as part of the consideration for such lease or agreement"; and the sub-section contains a proviso somewhat similar to the proviso to sub-s. (1) to the effect that where part of the dwelling-house is lawfully sublet at the commencement of the term, and is a dwelling-house to which the principal Act applies, that part shall notwithstanding continue to be controlled.

It is important to note however, the amendment effected in the above provision by virtue of s. 2 (1) (*b*) of the Continuation Act, 1925. Under s. 2 (2) as originally enacted the term granted was required to end at some date after the 24th June, 1926, but where such a term has been or is granted since the 28th May, 1925 (the date of the passing of the Continuation Act, 1925), the term is required to be for a period of "not earlier than one year after the date fixed at the time at which the lease is granted for the expiration of the (Rent Acts)," and at present that date is fixed (by virtue of the Expiry Laws Continuance Act, 1927), as the 25th day of December, 1928, although the present intention is to continue the Rent Acts for a further period by including them in the next Expiry Laws Continuation Act.

In order, therefore, that decontrol might be effected under sub-s. (2) of s. 2 of the 1923 Act, it will be essential to show (*a*) that a new lease has been granted after the 31st July, 1923 (the date of the passing of the 1923 Act); (*b*) that the term granted by such lease is for not less than two years; (*c*) that the date of expiry of such term is (i) in the case of a lease granted between the 31st July, 1923, and the 28th May, 1925, some date after the 24th June, 1926; (ii) in the case of a lease granted subsequently to the 28th May, 1925, a date not less than one year after the date fixed by Act of Parliament for the expiry of the Rent Acts when the lease was entered into, these dates being (a) under the Continuation Act, 1925 (which was passed on the 28th May, 1925), the 25th December, 1927; and (b) under the Expiry Laws Continuation Act, 1927 (which was passed on the 22nd December, 1927), the 25th December, 1928; (*d*) that the new lease has been granted to the sitting tenant.

This last principle was determined by the Court of Appeal in *Bartram* v. *Brown*, the contention that was raised there to the effect that the words "the tenant" in sub-s. (2) applied not only to the sitting tenant but also to a new tenant having been definitely rejected by the court. As Scrutton, L.J.,

pointed out, if a long lease was being granted to a new tenant decontrol could be effected under sub-s. (1) by the landlord entering into actual possession before granting the new lease, whereas a sitting tenant could not be dealt with in that way, sub-s. (2), therefore, being intended to meet such cases by enabling the landlord to effect decontrol by granting a long lease, fulfilling the requirements above mentioned, to the sitting tenant.

We may conclude, therefore, by stating the final proposition in the following manner:—

> "8. The expression 'the tenant' in sub-s. (2) means the sitting tenant, and a landlord can only decontrol premises under that sub-section by granting a new lease, complying with the requirements of that sub-section, to the sitting tenant."

# Our County Court Letter.

## LIABILITY FOR RATES.

A METHOD of modifying liability by means of a judicious use of the calendar was revealed in *Sowerby and Another* v. *Lindsay*, 44 T.L.R. 714.* The plaintiffs were landlords of a flat, and a clause in the lease to the defendant provided (*a*) that if the total sum paid by the tenant in any one year in respect of rates and taxes should exceed £125, the lessors would refund the excess; (*b*) that if such excess were not refunded within fourteen days the tenant should be at liberty to deduct the amount from the next instalment of rent. The years of the tenancy were from midsummer to midsummer, but each of those years covered three rating periods, viz.—Easter to Michaelmas, Michaelmas to Easter, and Easter to Michaelmas. Between 24th June, 1926, and 24th June, 1927, three payments of rates were made amounting to £213 11s. 8d., which exceeded £125 by the sum of £88 11s. 8d., and as the landlords did not refund the latter sum within fourteen days, the tenant claimed to deduct it from his rent due on 24th June, 1927. The landlords accordingly sued for that instalment of rent, less certain credits, and their claim for £66 9s. 2d. was remitted to the Mayor's and City of London Court, where the learned Recorder gave judgment in their favour. The Divisional Court reversed this decision, and Mr. Justice SALTER held that if even the tenant had failed to comply with his earlier covenant, viz., that he would duly and punctually pay the rates, he was nevertheless entitled to make the deduction. Mr. Justice TALBOT observed that the parties probably intended to apportion the rates, so that any excess over £125 would be borne by the lessor, but there was no proviso for apportionment when a rating period was partly in and partly outside a year of the term. The Court of Appeal upheld the judgment of the Divisional Court by a majority, Lord Justice SCRUTTON dissenting. He pointed out that if the tenant paid one half-year's rates in the first year of the tenancy and three in the second, he could then recover one half-year's rates from the landlord. By repeating the process he could cause the landlord to pay a half-year's rates three times in six years, which was never contemplated by the parties. Lord Justice GREER was unable to read "total sum paid" as "total sum payable," and he held that literal construction did no injustice to the lessors, who had their remedy in the shape of a claim for damages for breach of the covenant for punctual payment. Lord Justice RUSSELL agreed that it was an attractive suggestion that the words "rates and taxes" should be read as limited to the particular year in question, but to decide in the plaintiffs' favour would be re-drafting the clause and not construing the rights of the parties.

The result of a transfer of liability for rates was considered in *Hodgkinson and another* v. *Hewitt*, 44 T.L.R. 694, in which the plaintiffs were landlords and the defendant was tenant, of a controlled house in Sheffield within the Rent Restrictions Acts. The City Council, by virtue of a local Act, passed a resolution in 1927 whereby the liability for the consolidated rates was transferred from the occupier to the owner. The result was that the plaintiffs were rated, and became liable to pay a rate calculated at nine-tenths of the full consolidated rate, viz., 2s. 7½d. a week instead of 2s. 11d. previously paid by the defendant. The owners were allowed the remaining one-tenth as a rebate for cost of collection, the risk of bad debts, etc., but the plaintiffs claimed to increase the rent by the full rate as previously paid by the tenant, and not by the nine-tenths for which they had become liable as landlords. His Honour Judge LIAS gave judgment for the defendant in an action for possession, and this was affirmed by the Divisional Court. Mr. Justice ACTON held that the relevant section of the Rents Act, 1920, was s. 2 (1) (*b*) and not s. 2 (3) as contended by the landlords. Under the latter the transfer of liability would have entitled the landlords to charge the full rate, viz., 2s. 11d., but viewing the position under s. 2 (1) (*b*) there was an increase of rates payable by the landlord amounting to 2s. 7½d. a week only, which was all the landlords were entitled to charge the tenant. Mr. Justice FINLAY concurred and pointed out that the one-tenth allowed as a rebate had disappeared as a liability to pay money. The case was therefore governed by the decision of the House of Lords in *Nicholson* v. *Jackson*, 65 SOL. J. 713.

* See previous reference in "Landlord and Tenant Notebook," 9th June, 1928.

# Practice Notes.

## INCOME TAX AND FOREIGN SECURITIES.

CASES IV and V of Sched. D provide for the assessment to income tax of interest arising from foreign securities and possessions, and, in the absence of an authoritative definition of the meaning of the terms "security" and "possession" difficulties frequently arise. In the case of *Hudson's Bay Company* v. *Thew* it was argued that the word "security" assumed some tangible asset, but Mr. Justice ROWLATT said that if that were so the public debt of Canada and of the Provinces of Canada and of the various cities and local authorities which have issued debts, some of which are investments of a very high order, are not securities. It was inconceivable that they should not be. They were simply debts with interest attaching which were secured merely by covenant or obligation of the Government or the corporation. Here it was held that interest received on unpaid purchase money was income arising from securities. Interest arising from foreign or Dominion Government loans, therefore, is assessable under Case IV of Sched. D as a security. It is well established that shares in foreign or Dominion companies are possessions, and therefore the income is assessable under Case V. Section 48 of the Income Tax Act, 1918, refers to Government war loans as securities.

## BUILDING SOCIETIES.

The advertisements of building societies offering interest at 5 per cent. free of tax lead to a number of questions by intending investors in these securities, and it is well to note that there is no statutory provision which enables the societies to pay the interest free of tax. This is permitted by an arrangement with the Board of Inland Revenue based on the assumption that most of the recipients of the interest will be persons exempt from income tax owing to the smallness of their incomes. Under the arrangement the societies pay tax on a computation peculiar to themselves and are not permitted to pay interest free of tax to any company or to any individual who has invested £5,000 or more. Another point of importance in connexion with building society interest received is that, while the recipients are not charged income tax on the interest, they are called upon to pay super-tax thereon, but only on the net amount received. For super-tax purposes the gross amount of ordinary dividends and interest is liable to tax, but in the case of interest from a building society, it is the net which is charged upon.

# POINTS IN PRACTICE.

**Questions from Registered Annual Subscribers only are answered gratis. All questions should be typewritten (in duplicate), addressed to—The Assistant Editor, 29, Breams Buildings, E.C.4, and should contain the name and address of the subscriber. In matters of urgency, answers will be forwarded by post if a stamped addressed envelope is enclosed. No responsibility is accepted for the accuracy or otherwise of the replies given.**

**Vendor and Purchaser**—Compensation for Defect after Completion.

*Q.* 1355. In 1926 trustees of a will contracted to sell to A several plots of land delineated and numbered on a plan annexed to the contract. The sale was subject to the General Conditions of 1925, and to certain special conditions, one of which provided that the title should commence with the death intestate of J.P., who died in 1893, and that the purchaser should assume that J.P. died intestate seised in fee simple of the property at his death free from incumbrances, and that no evidence on these points should be required. The purchase was completed on these conditions. It now appears that in the year 1876 J.P. sold one of the plots included in the contract to B, who now claims the plot and has produced his conveyance, which bears out his claim. The conveyance to A contains a recital that the testator, whose trustees were selling, was at his death seised in fee simple in possession free from incumbrances of the property comprised in the contract. This recital, as regards the plot sold to B, is incorrect. The trustees conveyed to A as trustees in exercise of the trust for sale contained in the will. The purchaser A is now claiming a return of part of the purchase money paid by him on the ground of partial failure of consideration, but the vendors decline to make any allowance whatever. What remedy, if any, has A against his vendors ?

*A.* The conditions of sale expressly exclude a right to compensation, so that the purchaser, if he has any remedy, must find it under the general rules of law and equity. *Primâ facie* the purchaser has no redress (see *Debenham* v. *Sawbridge*, 1901, 2 Ch. 98). If, however, the purchaser can prove that the want of title was known to the vendors, an action based on fraudulent misrepresentation would lie. The recital of the testators seisin estops the vendors from denying the testator's title (*Gwyn* v. *Neath Canal Navigation Co.*, L.R. 3, Ex. 209), but it has never been decided that such a recital amounts to a warranty, and no suggestion to this effect is to be found in conveyancing text books. The judgments in *Joliffe* v. *Baker*, 11 Q.B.D. 255 (also found in all contemporary 1883 reports) contains a lucid examination of the whole question. It is feared the purchaser must put up with the loss however inequitable it may appear to be. It is assumed there was no actual adverse possession by the vendors of the land sold to B. If so, B's title may be defective.

**Charity**—Conveyance of Land to Trustees of Hospital—Title—Charitable Trusts Act, 1853, ss. 24 and 62.

*Q.* 1356. In May, 1927, A.B. and C.D. by deed of gift conveyed a plot of land and the dwelling-houses thereon to the trustees of a certain hospital. There is no trust for sale, the habendum being to the trustees in fee simple. The trustees have now agreed to sell the plot of land and dwelling-houses to C.D. with a provision in the contract that the purchaser shall assume that the vendor trustees have a full power of sale and no objection or requisition shall be made in respect of the above-mentioned deed of gift or the trustees' power of sale. On behalf of the purchaser it is contended that the consent of the Charity Commissioners is necessary to the sale. Is this contention correct ?

*A.* The trustees have a power of sale under the S.L.A., 1925, s. 29 (1), but sub-ss. (2) and (3) preserve the requirements to the exercise of a power of sale under the prior law. As to whether the consent of the Commissioners is required under s. 24 of the Charitable Trusts Act, 1853, or is unnecessary under s. 62, depends on the constitution of the hospital, as to which no data are given. The questioners may be referred to "Every-day Points in Practice," Case 4, p. 401, in which most of the chief authorities on s. 62 are discussed, and the relevant factors appear. Since the validity of the title depends on the issue, the opinion is here given that the requisition must be satisfied notwithstanding the condition.

**Husband and Wife**—Joint Tenants—Sale to Husband—Validity.

*Q.* 1357. In 1926 Jones conveyed land to his niece, Mrs. Smith, by voluntary conveyance. In 1927 Mrs. Smith sold the land for £180 to herself and her husband, the purchase money being expressed to have been paid by the husband. The deed contained the usual trust for sale and power to mortgage pending sale. Subsequently the niece and husband mortgaged the land to Jones for £500. The niece and husband now agree that they shall sell to the husband for £180. The husband will mortgage to a building society and pay off Jones. In view of the transactions between the husband and wife and Jones, can the building society be advised that the husband has a good title ?

*A.* The presumption on the purchase by Mr. Smith in the joint names of himself and his wife would be that the survivor was to take the beneficial interest, see *Dummer* v. *Pitcher*, 1833, 2 My. & K. 262 ; *Re Hicks*, 1917, 117 L.T. 360 ; and see also L.P.A., 1925, s. 170. The husband and wife hold in law, however, as trustees for sale under s. 36 (1). This being so, the proposed transaction is invalidated by the fact that the husband as trustee would be selling to himself. Perhaps the wife, if the only other beneficiary, would be estopped from disputing the sale, but a future purchaser would not know whether the equitable interests had been dealt with, and the sale would not bind any other person equitably interested. Accordingly the opinion is given that the title should not be accepted. The husband should retire from the trust and an independent trustee be appointed. It might even be better if both retired, see answer to *Q.* 344, p. 705, vol. 70, and *Doe d. Hartridge* v. *Gilbert*, 1843, 5 Q.B. 423, *Sutherland* v. *Sutherland*, 1893, 3 Ch. 169, though *Gilbey* v. *Rush*, 1906, 1 Ch. 11, may be cited as authority the other way. A purchase by Mr. Smith from two independent trustees would confer a safe title on him. Alternatively, the building society would be safe in taking a transfer of Jones' term.

**Post-1925 Intestacy**—Administration—Bondsmen—Termination of Liability when Spouse surviving.

*Q.* 1358. Intestacy (since January, 1926). Administration granted to wife and another. Bond in £12,000 odd of an insurance company for due administration. Intestate left a widow and one child, an infant. All debts, duties, etc., and the £1,000 to the widow have been paid and the residue ascertained and invested in the names of the administrators who now hold as statutory trustees for the widow and her daughter. When does the liability of the bondsmen come to an end ? The tying up of a moiety of the property for the life of the widow introduces an element unknown in intestacies before 1926. In the case quoted the widow is a young woman and may live for fifty years. The bondsmen did not contemplate such a protracted liability. Under the old law, on the children attaining twenty-one the estate would be distributed and all liability under the bond at an end. A

reasonable interpretation of the new law would be that, on the ascertainment and investment of the residue, the administration (so called) is at an end and the statutory trusts arise and the bondsmen are released—but query.

*A.* The administrators could deal with the infant's absolute moiety under the A.E.A., 1925, s. 42, and thus free themselves and the company from all liability in respect of it. There does not appear, however, to be anything in the new legislation in general, or the A.E.A., 1925, in particular, to over-ride the rule laid down in *Re Ponder*, 1921, 2 Ch. 59, that when the ordinary duties of administrators are ended, they become trustees of the property they hold. Accordingly, the opinion here given is that if the company, by proper audit and record of the administration accounts, is in a position to prove that the estate is cleared of debts and administration as in *Re Ponder*, they will have a complete answer to any action on their bond.

**Rates**—Territorial Association—Premises let for Private Purposes—Whether exempt.

*Q.* 1359. The local County Territorial Association own property which up to the present has been in their own occupation, and which, owing to their ownership, has not been assessed for rates. It is now proposed to let the premises to a private association, and the proposed lessees hesitate to take over the tenancy, being uncertain whether they would be liable to pay rates. I would be glad if you would inform me if, bearing in mind that the Territorial Association would, of course, still be the owners of the property, the occupiers would be liable to have the property assessed for rates? Authorities would be welcome.

*A.* The exemption for premises occupied for the purposes of Territorial Associations is established by *Wixon* v. *Thomas*, 1912, 1 K.B. 690, and is unaffected by the Rating and Valuation Act, 1925, see s. 64. But the exemption of Crown property ceases when it ceases to be used for Crown purposes, see *Ayr* v. *Smallpeace* and *Duke of Portland's Case*, 1759, 1 Const. 131, and *R.* v. *Lady Emily Ponsonby*, 1842, 3 Q.B. 14. For the application of the principle to premises used for military purposes, see *Lewis* v. *Durham Union*, 1904, 68 J.P. 220. The proposed lessees will on the above authorities be rateable if they occupy the premises for any purpose which does not give them inherent exemption.

**Landlord and Tenant**—Liability to Repair, etc., Floor-boards—"Fair Wear and Tear" Clause omitted.

*Q.* 1360. If in a lease of shop premises the lessee covenants to keep the interior of the demised premises in repair, and the landlord covenants to keep the roof, main walls and main timbers in repair, on whom would the liability for replacing or repairing worn floor-boards fall, assuming there is no exception in the tenant's covenant of "fair wear and tear" or "reasonable wear and tear"? We have not been able to find any authority on the question of whether or not floor-boards come within the description of main timbers. It is thought that main timbers include only the girders or joists (whether they be of wood or iron) carrying the floor, but not the floor-boards.

*A.* There appears to be no judicial definition of "main timbers," but in construing "tenantable repair" in *Proudfoot* v. *Hart*, 1890, 25 Q.B.D., it was stated (1) by Cave, J., at p. 45, that the tenant is bound to repair a breakage in a floor, but when a portion of the structure of the house has become worn out the tenant is never bound to substitute a new structure; (2) by Lord Esher, M.R., at p. 55, that a tenant is not bound to put down a new floor, but may satisfy his obligation by repairing it. The covenant in the above question contains no exception for wear and tear, so that the tenant is liable to remedy defects caused by wear. If only a few floor-boards are worn out, the tenant is bound, therefore, to replace them. If the whole floor were gone, the boards could then be regarded as constituent parts of a "main timber," as a floor is an integral part of a shop, and the landlord would be liable.

# Correspondence.

## Law or Practice.

Sir,—I can tell you a little story of a young solicitor who tried to save costs.

I had an abstract before a conveyancing counsel who the Bar said owed his appointment to his marrying the daughter of a Lord Chancellor. The counsel instructed me to make a very great number of requisitions which seemed to me in 1882 in great part unfounded. I researched and wrote further instructions, setting out my views, and many of the requisitions were then withdrawn.

When I presented my costs for taxation against a public body, the taxing master told me I knew too much law and too little practice and that he must assume conveyancing counsel was right, though it was plain that he was wrong, as the proposed requisitions were withdrawn. I was not allowed any costs whatever for my researches and convincing counsel he was wrong, and had I followed his opinion several guineas would have gone into my very hungry pocket. This is a true story and the moral is that a solicitor should not know much law but he should know practice.

London, E.C.2, 31st July. E. T. Hargraves.

## Prosecution of Crime Limitation in Scotland.

Sir,—In the short article from my pen which appeared in your issue of the 11th inst., there is an obvious slip on my part when I said: "much against the sound advice of his counsel Slater refrained from going into the witness box." What I fully intended to say was: "acting on the sound advice of his counsel."

I greatly regret the error, and hope you will in justice to all very kindly allow me to correct it in this way in your next issue. Your Contributor.

## Assets in France of a Person Deceased in England.

Sir,—We have read with interest the article under the above heading contained in your issue of the 11th inst.

We venture to suggest that the procedure outlined has reference only to the case of the death of a British national. If the deceased person is a French national, for instance, although domiciled in England, the getting in of the French assets by the English executor will not be found to be the easy matter suggested in the article, for, as we understand the matter, the French courts will not recognise the rights of the English executor acting under the English grant at all, as they only regard the French law of succession (being the law of nationality) as applicable.

Cheapside, London, E.C.4. 14th August. Hubbard, Son & Eve.

# Reviews.

*White and Tudor's Leading Cases in Equity.* Ninth Edition. Two Vols., with Notes. By E. P. Hewitt, K.C., and J. B. Richardson. London: Sweet & Maxwell. Vol. I, cxiii and 788 pp.; Vol. II, cxliii and 1072 pp. Price £4 10s. net.

Mr. Hewitt and Mr. Richardson have undertaken the responsible and onerous task of preparing a new edition of "White and Tudor"—the standard collection of cases in equity. The law on this subject has been so altered by decisions and statutes that a new edition was long overdue, especially as the work had not been brought up to date since 1910.

Inevitably, as each new edition appears, there must be some omissions, but such as there are in this work do not lessen the value of an old classic, and it is certainly a convenient practice for such books as this to be kept within reasonable bounds.

The new law of property legislation appears to have been treated broadly and, on the whole, well. Perhaps it is too much to expect text-book writers to treat this new law analytically until the courts have moulded its provisions.

The dangers of saying too much are as great as the danger of saying too little. We think, however, that the editors of the work which we are reviewing have well steered a middle course and their new edition is an interesting and valuable addition to the literature of the new, as of the old, law.

Volume I contains over 700 and Volume II over 900 pages of well annotated text, besides a table of contents, and tables of cases and statutes.

The index to both volumes covers more than 150 pages.

The book is well printed and set up. We might suggest that the paper is unnecessarily thick and, if in future it becomes necessary to consider reducing the size of this book, the use of thinner paper may prevent valuable material being cut out of the text.

This work, unquestionably, ought to be in the library of every equity practitioner. M.

# NOTES OF CASES.

## Court of Appeal.

**More** *v.* **Weaver.** 11th and 12th July.

LIBEL—PRIVILEGE—COMMUNICATIONS FROM CLIENT TO SOLICITOR—RELEVANT TO MATTERS ON WHICH SOLICITOR'S ADVICE IS SOUGHT—ABSOLUTE PRIVILEGE.

Appeal from a judgment of Swift, J.

The plaintiff, Miss Kathleen Frances Mervin More, claimed from the defendant, Miss Flora Gertrude Weaver, damages for alleged libels which the plaintiff said were contained in letters which the defendant sent to her solicitor. The defendant denied that the words complained of were defamatory, and pleaded that the letters were privileged. In 1923 the plaintiff proposed to purchase the business of a private hotel, and the defendant agreed to find the necessary money for that purpose, but no terms were arranged between them with regard to security or interest. It was subsequently arranged that the plaintiff should give as security to the defendant a mortgage on the leases of the houses which constituted the hotel. A mortgage was accordingly prepared, but a dispute about the signing of the mortgage then took place between the plaintiff and the defendant. The defendant wrote to her solicitor the letters which were complained of as being libellous. They were written for the purpose of his advising and assisting her to get proper security for her money and finally to obtain repayment of it. Swift, J., held that the communications between the defendant and her solicitor were absolutely privileged, and that no action for defamation would lie in respect of such communications. Even if he were wrong in that view, and those communications were the subject of a qualified privilege only (having been published on a privileged occasion) then there was no evidence of any malice to destroy that privilege. In either event, there was no case to go to the jury, and the action failed. Accordingly, judgment was entered for the defendant with costs. The plaintiff appealed.

The Court (SCRUTTON, LAWRENCE and GREER, L.JJ.) dismissed the appeal. The communications passing from the defendant to her solicitor were relevant to the matters under discussion between them, and on which the defendant sought her solicitor's advice and assistance. There were certain cases, e.g., judges, counsel and witnesses in court, where defamatory statements were abolutely privileged. In *Watson* v. *McEwan*, 1905, A.C. 480, the House of Lords held that the privilege extended to statements made by a witness to a solicitor in preparing the proof for trial. The question was, did the absolute privilege extend to communications passing between client and solicitor or *vice versa?* Darling, J., in *Morgan* v. *Wallis*, 33 T.L.R. 495, expressed the view that privilege in such cases was qualified only, but as against that there was the very high authority, *Brown* v. *Dunn*, 1903, 6 R. 67, at pp. 72 and 80, in the House of Lords, where Lord Herschell and Lord Bowen were inclined to the view that such communications were absolutely privileged. The decision of Darling, J., in *Morgan* v. *Wallis*, *supra*, was erroneous and should not be followed. The communications passing from the defendant to her solicitor in this case being relevant, were absolutely privileged, and the appeal failed. Appeal dismissed.

COUNSEL: *The Appellant in Person; Rayner Goddard*, K.C., and *O'Hagan* for respondent.

SOLICITORS: *Maitland, Peckham & Co.*, for respondent.

[Reported by T. W. MORGAN, Esq., Barrister-at-Law.]

## High Court—Chancery Division.

**Johnson** *v.* **Clarke.** Maugham, J. 28th and 29th June.

VENDOR AND PURCHASER—CONTRACT FOR SALE OF FREEHOLDS—SUBJECT TO A TENANCY FROM YEAR TO YEAR—AGREEMENT WITH TENANT NOT DISCLOSED—SUBSEQUENT DISCOVERY OF AGREEMENT—PURPORTED OPTION AS TO LONG LEASE AND PURCHASE THEREIN—POWER OF EXECUTORS TO GIVE—CONSTRUCTION—AGREEMENT AS OBJECTION TO TITLE—SPECIFIC PERFORMANCE.

Witness action.

This was a vendor's action for specific performance. The facts were as follows: The plaintiffs were the executors of the will of one W. H. Johnson made in 1906. By a contract in writing dated the 6th day of March, 1927, they agreed to sell a certain freehold house and land to the defendant for £2,785. The premises had been for some years, and still were at the date of the contract, in the occupation of one A. E. Richards, who was described in the particulars of sale as a tenant from year to year. In the abstract of title delivered no written agreement of tenancy with Richards was disclosed. After the contract had been signed Richards informed the purchaser's solicitors that he was entitled under a document given him in 1915 to an option of purchase over the property. The document, which had been mislaid, was found, and was discovered to be a letter dated 20th March, 1915, signed by one of the plaintiffs, and addressed to Richards. It stated that the executors accepted him as a tenant in consideration of the payment of the first quarter's rent, and continued: "We give you the option of entering into immediate occupation, and we agree not to advance the agreed rent so long as you remain the tenant and regularly pay the rent . . . We also give you the option of taking the said house and premises on any lease suitable to you at the same rent or the option of purchasing the said house and premises at a price to be mutually agreed upon. You can rest assured if you remain tenant for twenty years we shall not interfere with the rent, although we are sacrificing £20 a year." When this document was produced the defendant refused to complete, alleging that the document amounted to an incumbrance not disclosed by the abstract and an objection to title, and accordingly the vendor started this action and the defendant pleaded that he could not make a good title and counter-claimed for the return of his deposit.

MAUGHAM, J., in the course of a considered judgment, and after stating the facts, said: The question here is whether the defendant can successfully defend this action for specific performance on the ground of the rule that the court ought

not to force a doubtful title on a purchaser. In the case of *Blume and Rowlett's Contract*, 1880, 13 Ch. D. 774, Jessel, M.R., at p. 781, recognised that the old rule had been to some extent changed, and that it was incumbent on the court to consider questions of law as between vendor and purchaser, and to decide whether an objection to title was good or bad. In the case of *Smith* v. *Colbourne*, 1914, 2 Ch. 533, Lord Cozens Hardy, M.R., said that the court had not in modern times listened with favour to the defence that a title was too doubtful to be forced upon a purchaser. In the present case there was no easy method of ascertaining exactly what were the rights of Richards under the document of March, 1915, and the court had no power to compel the vendors to start an action against him. But on the construction of this contract and the evidence it is clear that under that document Richards can claim no greater interest than that of a tenant from year to year. The option to purchase is of no value at all, and in any case is quite beyond the powers of the vendors as executors to grant. The tenancy claimed by Richards, which amounts to a tenancy for life at a fixed rent, is one wholly beyond the powers of the executors to grant. The objection to the title fails and the plaintiffs are entitled to a decree for specific performance, but as they failed to produce the agreement of 1915 and left it to the purchaser to discover it, the order will be made without costs.

COUNSEL: *Gover*, K.C., and *Norman Daynes*; *Jenkins*, K.C., and *A. E. Pritchett*.

SOLICITORS: *S. F. Miller & Miller*, for *Thursfield, Messiter and Shirlaw*, Wednesbury; *Kingsley Wood, Williams & Co.*, for *William Bache & Sons*, West Bromwich.

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

# Probate, Divorce and Admiralty Division.

**The "Penelope."** Lord Merrivale, P. 11th May.

CHARTERPARTY—BREACH OF CONTRACT—FRUSTRATION—IMPOSSIBILITY OF PERFORMANCE—COAL STRIKE, 1926.

The plaintiffs a colliery company, and an Italian coal importer claimed damages for breach of contract under a charter made with the defendant, the owner of the Greek steamship "Penelope." By the charterparty which was made in March, 1926, it was agreed that during twelve months from a date to be fixed between 20th May and 20th June, 1926, the ship should be employed in carrying successive cargoes of coal from one of the South Wales ports to Italian or Sicilian ports. The difference between the parties arose as a result of the general strike and the stoppage of work in the collieries for a very long period. The plaintiffs allege that in December, 1926, when performance of the agreement was practicable the defendants refused to perform it. Defendants alleged that by reason of the coal strike "the commercial nature provided for by the charterparty was wholly destroyed and/or its identity was wholly altered," and that the contract thereby became null and void. The charterparty provided that the steamer was not to be ordered to any loading port at which there was a strike in force, and that she was to be free to interpose a substantially similar voyage "if charterers unable forthwith to order steamer to another loading port stipulated in charter and free of strike."

The President (Lord MERRIVALE) in the course of a considered judgment said: This case is complicated by the fact that serious labour troubles were foreseen when the charter was made, and it contained a clause relating to possible strikes. Moreover, for a considerable time after performance of the charter was due and the coal strike prevented it, each party anticipated that the "Penelope" might sooner or later carry coal for the plaintiffs on the terms of the charter, and acted on that supposition. It has been persuasively argued that as the coal strike was not unforeseen the principles expressed in the cases on frustration cannot apply. What was unforeseen, however, was the total impossibility of any export of coal from the South Wales ports for a period of half a year and upwards. The kind of interference which the parties contemplated in the various clauses of the charterparty relative to that matter, was an interruption of work by a local withdrawal of labour. Such an interruption was a trivial occurrence compared with the events in question. On the whole, I come to the conclusion that there is an unforeseen compulsory change of circumstances not contemplated by the parties. I find that they impliedly agreed that a Tunis-London-Swansea voyage and later a Stettin-Manchester voyage should be made as though they were voyages within the provisions of the charterparty. When the defendant was at Swansea in August the plaintiffs declared themselves unable to fulfil their obligations to name a port of loading, and he took his own course by accepting a Montreal charter. Afterwards he determined, without any consent of the charterers, to make a Huelva-Rouen voyage. In due course he learned that the plaintiff did not consent to these voyages. He did not ask their consent. He intended to offer them the vessel at a reasonable period after the end of the strike. I find that the charterparty as varied by the understanding which was arrived at as to the two substituted voyages, was not further varied or prolonged, and that when the defendant refused to satisfy the demands of the plaintiffs in and after November, 1926, they were rightly refused. Using the words "ready and willing" in the sense in which they are properly used in matters of contract the plaintiffs were not ready and willing to perform the obligations of the charterparty at the material times to which the dispute related. The action fails, and must be dismissed with costs.

COUNSEL: *Langton*, K.C., and *Sir Robert Aske*; *Dunlop*, K.C., and *H. O'Hagan*.

SOLICITORS: *Botterell and Roche*, for *Vaughan & Roche*, Cardiff; *Holman, Fenwick and Willan*.

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

# Societies.

## The Society of Public Teachers of Law.

The twentieth annual general meeting of the above Society was held in the University of Cambridge, on 6th and 7th ult., by invitation of the members of the Faculty of Law in the University. Nearly seventy members from all the law schools of the country attended. On Friday afternoon a garden party was held at Trinity Hall, on the invitation of the Master and Fellows. In the regretted but unavoidable absence of the Master (Dr. H. Bond), Dr. D. T. Oliver received the guests in the Fellows' garden.

The subject for discussion at the evening meeting, which was held in Trinity College, was "Some Aspects of Administrative Law." The discussion was opened by Mr. C. K. Allen, University Lecturer in Jurisprudence and Fellow of University College, Oxford. Mr. Allen avoided a rigid definition of his subject, and discussed at length the senses in which the term "Administrative Law" seemed to be understood in England at the present day. (1) A special body of State privilege and immunity. This did not exist in England, but it could hardly be said to exist in any enlightened modern State. Some current impressions in England of *Droit Administratif* hardly did it justice. Our doctrine was unsatisfactory in emphasising the liability of the state-agent rather than of the state itself. Mr. Allen referred to the different branches of the jurisdiction of the *Conseil d'Etat*, and in particular to the important distinction between *faute personnelle* and *faute de service*, and the now greatly restricted doctrine of *acte de gouvernement*. While the state in France was not unduly privileged, the Crown in England was not unprivileged. Reference was made to Crown practice, proceedings in petition of right, immunity of the Crown in tort, the operation of the Public Authorities Protection Act, and the recommendations of the Crown Proceedings Committee. (2) A special jurisdiction dealing exclusively with administrative matters. This did not exist in England, though we had a growing number of administrative tribunals. The position of the *Conseil d'Etat*

in France as a judicial body was discussed. (3) Legislative power entrusted to the executive. All lawyers were deeply concerned by the present extent of legislation by reference, and examples were given of the frequent and pointed judicial observations upon it. (4) Judicial powers entrusted to the executive. These again were the subject of much anxiety and comment.

Mr. Allen proceeded to discuss the objections to these elements of administrative law. On the whole, it could not be said that the administration in this country worked badly. Nor did we in this country adhere fanatically to the doctrine of the separation of powers. But that doctrine represented a sound working basis for the normal distribution of public power, and while a certain overlapping existed and was not objectionable, the overlapping of the executive with other powers contained serious dangers. The "root-and-branch" abolition of these elements of administrative law seemed impracticable, but certain reforms were much needed. As the most pressing, Mr. Allen suggested: (*a*) Greater caution by Parliament in the delegation of legislative powers, though the entire suppression of legislation by reference did not seem possible. (*b*) A more efficient machinery for the scrutiny by Parliament of delegated legislation: this might be secured by a committee or committees, such as existed for the examination of draft measures under the "Enabling Act" of 1919. (*c*) A jealous preservation of the judicial instrument of *ultra vires* and an abandonment of the practice of giving delegated legislation unimpeachable validity "as if enacted" in the principal Act. (*d*) Uniformity of procedure in administrative tribunals, and the preservation of certain elementary principles (now often disregarded) essential to the administration of justice by any judicial or quasi-judicial body. (*e*) The right of appeal to the ordinary tribunals should be preserved except in the most trifling cases. Mr. Allen dissented from the proposal for a special administrative appeal tribunal and strongly advocated appeal to the High Court. (*f*) The question of costs was involved in that of appeal. The present rules as to costs in Crown suits were discussed, and also the proposal to substitute the ordinary rule. This would not entirely solve the difficulty. Much might be done by shortening appeals in ordinary cases, and in special circumstances by allowing appeal to go to the highest tribunals only on a certificate from the Attorney-General. (*g*) A more humane discretion by the Crown in pressing *summum jus* against the subject was much to be desired: though it had to be remembered that the matter was not one-sided, and the Crown was often exposed to unmeritorious claims.

Mr. W. A. Robson (London School of Economics), Professor Tillyard (University of Birmingham) and Sir Maurice Gwyer continued the discussion.

The members were subsequently entertained at dinner by the Master and Fellows of St. John's College, Professor Sir Joseph Larmor, F.R.S., presiding. The guests included Professor H. C. Gutteridge (President), The Rt. Hon. Sir Frederick Pollock, Mr. R. M. Welsford (President of the Law Society), Sir William Harrison Moore, Sir Maurice Gwyer, Dr. A. E. W. Hazel, His Honour Judge Dowdall (Vice-President), Mr. G. J. Turner, Professor J. L. Brierly (University of Oxford), Professor W. W. Buckland (University of Cambridge), Professor J. E. G. de Montmorency (University of London), Professor H. D. Hazeltine (University of Cambridge), Professor A. Pearce Higgins (University of Cambridge), Professor W. S. Holdsworth (University of Oxford), Professor J. D. I. Hughes (University of Leeds), Professor Edward Jenks (University of London), Professor R. W. Lee (University of Oxford), Professor C. E. Smalley Baker (University of Birmingham), Professor F. Tillyard (University of Birmingham), Dr. E. Leslie Burgin, Mr. H. F. Jolowicz (Editor of the Society's Journal) and Mr. E. C. S. Wade (hon. secretary). The following Fellows of the College (in addition to Sir Joseph Larmor) were also present: Rev. A. J. Stevens, Dr. L. E. Shore, Mr. H. S. Foxwell, Mr. E. A. Benians, Professor E. J. Rapson, Mr. G. G. Coulton, Professor O. H. Prior, Mr. F. P. White, Professor P. H. Winfield (hon. treasurer of the Society), Mr. M. H. A. Newman, Mr. M. P. Charlesworth, Mr. I. L. Evans, Mr. F. H. Constable and Mr. T. A. Sinclair.

The visiting members were entertained in Colleges or privately by members of the Faculty of Law for the night of Friday, and on Saturday morning the business meeting was held at Gonville and Caius College. The annual report of the general committee showed that a special committee had arranged for publication in the Journal of the Society of Comparative Legislation of a bibliography in real property law, and that the fund for carrying out a scheme of lectures on the Year Books in the Universities and University Colleges in England and Wales has been raised and the first two years of the scheme completed. The outgoing President, Professor H. C. Gutteridge, chose as the subject for his Presidential address "Advanced Legal Studies." He pleaded for an extension of the area of legal research, so as to bring within its ambit subjects which fell midway between law and such branches of learning as economics and political science. It might be doubted whether such research could properly be limited to those who had taken a first degree in law. The academic problem of testing the fitness of candidates for higher degrees by requiring theses or highly specialised topics was criticised as tending often to produce too negative results, particularly in the case of younger graduates preparing for a professional career. This method was better adapted to the contributions of men of mature practical experience who could make valuable contributions to legal knowledge from their special sphere of work. The subject of the thesis should not be intended to influence objects apart from academic distinction. Nor was it easy, apart from such temptations, to suggest subjects which had not been adequately covered in the past. The fields of Roman law, comparative law, international law and jurisprudence probably offered the best scope and usually required a working knowledge of one or more foreign languages. This requirement was, however, absent in the case of constitutional law, where much remained to be done in the sphere of inter-imperial relations. Linguistic difficulties might be overcome by collaboration; the joint research of students of pure science afforded a precedent. Alternative methods of examining candidates for higher degrees were discussed, and in particular, examinations of an advanced type. A discussion followed.

Professor Edward Jenks (University of London) proposed a vote of thanks to the President for his great services to the Society, particularly in the past two years of office.

The following officers were elected for 1928-29: As President—His Honour Judge Dowdall, K.C. (University of Liverpool); as Vice-President—Professor P. H. Winfield (University of Cambridge); as Treasurer—Mr. P. A. Landon (University of Oxford and the Law Society's School of Law); as Hon. Secretary—Mr. E. C. S. Wade (University of Cambridge and the Law Society's School of Law).

MARRIAGE SETTLEMENTS.

It may interest the profession to know that draft forms of Marriage Settlements, settled by Sir Benjamin Cherry, LL.B., are now on sale. They are published by The Solicitors' Law Stationery Society, Limited, 22, Chancery Lane, W.C.2, and branches.

# Rules and Orders.

The Bankruptcy Rules (No. 2), 1928, dated 25th July 1928, made under section 132 of the Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59).

1. The following Rules shall be inserted in the Bankruptcy Rules, 1915,(*) before Rule 99, and shall stand as Rule 98A:—

"98A. *Jurisdiction and business of Taxing Masters.*]—(1) Every Master of the Supreme Court (Taxing Office) shall have power and jurisdiction to tax and settle all costs, charges, and expenses in all matters in which the High Court may exercise bankruptcy jurisdiction and in any matter in which a review of the taxation made by a registrar of the County Court is required by the Board of Trade in pursuance of these Rules.

(2) The Taxing Office of the High Court in Bankruptcy shall be under the control and superintendence of the Masters of the Supreme Court Taxing Office. The business relating to taxation in the High Court in Bankruptcy shall be regulated and distributed by the Taxing Masters among themselves in such manner and order as the Taxing Masters may deem expedient, and the Bankruptcy Taxing Masters shall be respectively assistant to each other, and in the discharge of their duties and for the better despatch of business any such Taxing Master may tax or assist in the taxation of a bill of costs or charges and expenses or in any review which has been referred to any other Taxing Master for taxation and for ascertaining what is due in respect of such costs or charges and expenses and in such case shall certify accordingly."

2. The Bankruptcy Rules, 1915, shall have effect subject to the revocations, omissions and substitutions shown in the Schedule to these Rules, and accordingly the Rules or words mentioned or set out in the First Column of the said Schedule are hereby revoked and the Rules or words set out in the Second Column of the said Schedule are hereby substituted therefor.

3. These Rules may be cited as the Bankruptcy Rules (No. 2), 1928.

(*) S.R. & O. 1914 (No. 1824) I., p. 41.

I, Douglas McGarel Lord Hailsham, Lord High Chancellor of Great Britain, with the concurrence of the President of the Board of Trade, hereby certify that on account of urgency these Rules should come into immediate operation, and hereby make the said Rules to come into operation forthwith as Provisional Rules.

Dated the 25th day of July, 1928.

*Hailsham*, C.

I concur.

*P. Cunliffe-Lister*,
President of the Board of Trade.

*Schedule.*

| First Column. Rule or words revoked. | Second Column. Rule or words substituted. |
|---|---|
| 1. In rule 3 the definition of "Taxing Officer." | "Taxing Officer" means, as regards bills of costs taxed in the High Court, the Bankruptcy Taxing Master, and, as regards bills of costs taxed in the County Court, the Registrar of the County Court. "Bankruptcy Taxing Master" means the Master of the Supreme Court (Taxing Office) discharging the duties of Taxing Officer in pursuance of these Rules. |
| 2. In rule 98: "the Taxing Master or Officer." | the Taxing Officer. |
| 3. In rule 99: "the Act." | The Bankruptcy Acts 1914 and 1926 or any prior enactment relating to bankruptcy. |
| 4. Rule 100. | |
| 5. Rule 101. | |
| 6. In rule 108: "Every Taxing Officer." | The Chief Bankruptcy Taxing Master, and in the County Court, every Taxing Officer. |
| 7. Rule 113. | 113. The bill or charges, if incurred prior to the appointment of a trustee, shall be lodged for perusal with the Official Receiver, and if incurred after the appointment of a trustee, shall be lodged for perusal with the trustee. The party whose bill or charges is or are required to be taxed shall on obtaining the bill or charges from the Official Receiver or the Trustee, as the case may be, lodge such bill or charges with the Taxing Master and upon receiving an appointment to tax shall give notice of such appointment as required by Rule 112. |
| 8. In rule 125: "This Rule may also apply to the office of Bankruptcy Taxing Master." | The provisions of this Rule shall also apply to the office of the Bankruptcy Taxing Master. |

# Legal Notes and News.

## Honours and Appointments.

The Board of Trade have appointed Mr. OWEN BERNARD WALLIS, M.A., LL.B. (Cantab.), solicitor, Official Receiver for the Bankruptcy District of the County Courts at Hereford and Leominster as from the 17th August, in succession to Colonel M. J. G. Scobie, resigned. Mr. Wallis was admitted in 1913.

## Professional Announcements.

(2s. per line.)

Messrs. GREGORY, ROWCLIFFE & Co., solicitors, 1, Bedford-row, W.C.1, have as from the 1st August, 1928, taken into partnership Mr. John Frederick Woodthorpe, who has been with that firm for some time past.

Messrs. STEPHENSON, HARWOOD & TATHAM, of 16, Old Broad-street, E.C.2, announce that Mr. Ronald Neil Macleod, formerly of Messrs. Platt & Co., Shanghai, China, has been admitted to partnership as from the 1st August.

## Wills and Bequests.

Mr. Alexander Macbeth, of Llanover, Pitlochry, solicitor and bank agent, left personal property in Great Britain of £24,284.

Mr. John Millington Simpson, solicitor, of Boston (Lincs) (net personalty £34,331), left estate of the gross value of £36,058.

Mr. Percy John Vardon, solicitor, of Guildford and Old Burlington-street, W., left estate of the gross value of £26,362.

Lieutenant-Colonel William James Jones, T.D., (seventy-four), of Victoria-place, Haverfordwest, solicitor, on two occasions Mayor of Haverfordwest, left estate of the gross value of £4,019, with net personalty *Nil*.

Mr. Alfred Gammon Wilkie, of Lamoney Park Hotel, Sidcup, and of Queen-street, Cheapside, E.C., solicitor, left estate of the gross value of £11,362.

Mr. Fairfax Spofforth, of Bristol, solicitor, left estate of the gross value of £37,818.

### THE YEAR'S LEGAL CHANGES.

The close of another legal year is a convenient moment for surveying the changes among members of the Supreme Court Bench during 1927-28. The period was notable in that it brought five new figures to the bench.

The year began with an unfilled vacancy in the King's Bench Division, due to the pathetically sudden death, in July, 1927, of Mr. Justice Fraser when attending the Manchester Assizes. No other death occurred among the judges save that of Viscount Cave, the Lord Chancellor, which brought in a successor, Lord Hailsham (formerly Sir Douglas Hogg, K.C., Attorney-General).

The Court of Appeal changed half its personnel. Two members, Lord Justice Bankes and Lord Justice Sargant, respectively seventy-four and seventy-two years of age, retired, and Lord Justice Atkin became a Lord of Appeal-in-Ordinary. These three vacancies were filled by the advancement to the rank of Lord Justice of Mr. Justice Greer and Mr. Justice Sankey, from the King's Bench Division, and Mr. Justice Russell from the Chancery Division. With the appointment of Mr. Justice Hawke, in succession to the late Mr. Justice Fraser, and of Mr. Justice Charles and Mr. Justice Humphreys to fill the other two vacancies, the full judicial strength of eighteen King's Bench judges, including the Lord Chief Justice, was restored.

The replacement of Mr. Justice Russell in the Chancery Division by the appointment of Mr. Justice Maugham brought about the noteworthy position of brothers-in-law serving on the equity side together, Mr. Justice Maugham having married a sister of Mr. Justice Romer.

As composed at the present moment the bench is singular in having six active members whose period of service exceeds the fifteen years fixed by the Judicature Acts as entitling them voluntarily to retire on superannuation. Mr. Justice Astbury reached that stage so recently as last June. Mr. Justice Rowlatt became a judge sixteen years ago. Lord Justice Scrutton, Mr. Justice Avory and Mr. Justice Horridge have each eighteen years to their credit. Next December Mr. Justice Eve will have held office for twenty-one years. The ages of these six judges range from sixty-six to seventy-seven, the average being a little over seventy-one, and of all it may be said that they retain full mental vigour and enviable bodily vigour. When next April is reached two more will be added to the full-time servers—Lord Justice Sankey and Mr. Justice Shearman.

### CERTIFIED ACCOUNTANTS.

The next examinations of the London Association of Accountants will be held on 4th, 5th and 6th December, in London, Glasgow, Edinburgh, Newcastle, Birmingham, Belfast, Cork, Dublin, Leeds, Sheffield, Manchester, Liverpool, Cardiff, Bristol, Nottingham, Hull and Plymouth. Women are eligible under the Association's regulations to qualify as Certified Accountants upon the same terms and conditions as are applicable to men. Particulars and forms are obtainable at the office of the Association, 50, Bedford-square, London, W.C.1.

A UNIVERSAL APPEAL.

TO LAWYERS: FOR A POSTCARD OR A GUINEA FOR A MODEL FORM OF BEQUEST TO THE HOSPITAL FOR EPILEPSY AND PARALYSIS, MAIDA VALE, W. 9.

## REMOVAL OF SURREY ASSIZES.

The Surrey County Council, at a recent meeting at Kingston, expressed itself in favour of the transference of the Surrey Assizes from Guildford to Kingston. A resolution to this effect was carried by forty-one votes to twenty-eight.

It was stated in the report of the General Purposes Committee that the Lord Chancellor and His Majesty's judges were in favour of the continuance of the Assizes at Guildford and the provision of new courts there. It was pointed out in reply to this that the courts at Kingston had proved satisfactory for the holding of Quarter Sessions and that the county council would carry out such improvements there as the judges might suggest. The Guildford Corporation had put forward a scheme for new court buildings there at an estimated cost of £50,000, of which £30,000 would come from county funds and the remainder be contributed by Guildford.

Sir Henry Henriques said this was a most inopportune time to ask for such an expenditure just to deal with three civil and thirty-three criminal cases a year—those being the figures for last year.

After some discussion, the resolution in favour of removal to Kingston was carried, and it was agreed to ask the Lord Chancellor to inspect the court buildings at Kingston.

## JUDGE AND REMARKABLE TERMS.

A remarkable tenancy agreement figured in a case at Shoreditch County Court recently, in which Edward Cowton, cabinet maker, of Ockenden-road, Islington, and Walter Cowton, of Ardleigh-road, Hackney, asked for possession of a shop and dwelling-rooms at Morning-lane, Hackney, occupied by Horace Soutter, on account of arrears of rent.

Judge Cluer read the agreement, which stated that the landlords had the right to effect an entry of the premises either by door or window, and, "by force if necessary," to take possession in the event of the rent being unpaid for a certain period. "That is dangerously near Richard II.," commented his honour. "That is getting very serious. You must not do that."

His honour pointed out that forcible re-entry of premises had been illegal since an Act passed in the reign of Richard II, and under this statute a tenant would have been able to recover £100 damages from a landlord who re-entered by force. These applicants, however, had not adopted that course, but had preferred to come to court.

"I am glad to see," he continued, "that the gentleman who drew up this agreement has not put his name on it, and I don't know who it was. I will assume that it was not drawn up by a solicitor."

An order was made for possession in a month if the arrears (£23 10s.) and costs were not paid, but applicants said that so long as defendant gave up possession they would not trouble him for payment of the arrears.

## A LEGAL GOLF MATCH.

A team from the London Solicitors' Golfing Society played a match against the Ladies' Legal Golfing Association, over the Royal Automobile Club's course, at Epsom, on the 25th ult., when the ladies proved successful by 7 matches to 5.

The results were :—

| Ladies' Legal | G. | A. | London Solicitors' | G. | S. |
|---|---|---|---|---|---|
| Mrs. Major | .. | 0 | A. R. Patey, 5 and 4 | .. | 1 |
| Mrs. Culross, 2 up | .. | 1 | L. W. Webster | .. | 0 |
| Mrs. Erlebach | .. | 0 | Major Lousada, 2 up | .. | 1 |
| Mrs. Oldershaw, halved | .. | ½ | J. A. Attenborough, halved | .. | ½ |
| Mrs. Cripwell | .. | 0 | J. A. M. Spice, 2 up | .. | 1 |
| Mrs. Rawlinson, 5 and 3 | | 1 | H. R. Sadler | .. | 0 |
| Miss Purchase, 3 and 2 | .. | 1 | B. Trayton Kenward | .. | 0 |
| Mrs. Abady, 1 up | .. | 1 | E. Cripwell | .. | 0 |
| Mrs. Creswell Loader | .. | 0 | C. E. Stredwick, 3 and 2 | | 1 |
| Mrs. Church Bliss, 5 and 4 | | 1 | C. R. Callard | .. | 0 |
| Mrs. Callard, halved | .. | ½ | F. Evelyn Jones, halved | | ½ |
| Mrs. Kenward, 4 and 3 | .. | 1 | C. V. Young | .. | 0 |
| | | 7 | | | 5 |

## JUST IN CASE.

"Is your wife here?"

"She said she would be here to see if I had to go to prison."

—*At Shoreditch County Court.*

**VALUATIONS FOR INSURANCE.**—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac a speciality.

# Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement Thursday, 30th August, 1928.

| | Middle Price 15th Aug. | Interest Yield. | | | Yield with Redemption. | | |
|---|---|---|---|---|---|---|---|
| **English Government Securities.** | | £ | s. | d. | £ | s. | d. |
| Consols 4% 1957 or after | 86⅜ | 4 | 12 | 6 | — | | |
| Consols 2½% | 58½ | 4 | 10 | 6 | — | | |
| War Loan 5% 1929-47 | 102¼ | 4 | 17 | 6 | 4 | 17 | 6 |
| War Loan 4½% 1925-45 | 98½ | 4 | 11 | 0 | 4 | 14 | 0 |
| War Loan 4% (Tax free) 1929-42 | 101¼ | 3 | 19 | 0 | 3 | 19 | 6 |
| Funding 4% Loan 1960-1990 | 89½ | 4 | 9 | 6 | 4 | 11 | 0 |
| Victory 4% Bonds (available for Estate Duty at par) Average life 35 years | 95 | 4 | 4 | 3 | 4 | 7 | 6 |
| Conversion 4½% Loan 1940-44 | 98¾ | 4 | 11 | 2 | 4 | 13 | 0 |
| Conversion 3½% Loan 1961 | 77¾ | 4 | 10 | 0 | — | | |
| Local Loans 3% Stock 1921 or after | 65 | 4 | 12 | 0 | — | | |
| Bank Stock | 263 | 4 | 12 | 0 | — | | |
| India 4½% 1950-55 | 93¾ | 4 | 16 | 0 | 4 | 19 | 6 |
| India 3½% | 71⅜ | 4 | 18 | 3 | — | | |
| India 3% | 61¼ | 4 | 18 | 0 | — | | |
| Sudan 4½% 1939-73 | 96 | 4 | 13 | 9 | 4 | 15 | 0 |
| Sudan 4% 1974 | 86 | 4 | 13 | 0 | 4 | 17 | 0 |
| Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 19 years) | 83 | 3 | 12 | 0 | 4 | 8 | 0 |
| **Colonial Securities.** | | | | | | | |
| Canada 3% 1938 | 86 | 3 | 10 | 0 | 4 | 16 | 0 |
| Cape of Good Hope 4% 1916-36 | 95 | 4 | 4 | 3 | 4 | 19 | 6 |
| Cape of Good Hope 3½% 1929-49 | 81¾ | 4 | 5 | 6 | 4 | 18 | 6 |
| Commonwealth of Australia 5% 1945-75 | 99 | 5 | 1 | 0 | 5 | 2 | 0 |
| Gold Coast 4½% 1956 | 95 | 4 | 14 | 6 | 4 | 17 | 6 |
| Jamaica 4½% 1941-71 | 95½ | 4 | 14 | 0 | 4 | 16 | 0 |
| Natal 4% 1937 | 94 | 4 | 5 | 0 | 5 | 0 | 0 |
| New South Wales 4½% 1935-45 | 90 | 5 | 0 | 0 | 5 | 7 | 0 |
| New South Wales 5% 1945-65 | 99 | 5 | 1 | 0 | 5 | 3 | 0 |
| New Zealand 4½% 1945 | 96 | 4 | 13 | 6 | 4 | 17 | 6 |
| New Zealand 5% 1946 | 104 | 4 | 16 | 0 | 4 | 14 | 0 |
| Queensland 5% 1940-60 | 100 | 5 | 0 | 0 | 5 | 0 | 6 |
| South Africa 5% 1945-75 | 103 | 4 | 17 | 0 | 4 | 16 | 0 |
| South Australia 5% 1945-75 | 98¼ | 5 | 1 | 0 | 5 | 2 | 0 |
| Tasmania 5% 1945-75 | 101 | 4 | 19 | 0 | 5 | 0 | 0 |
| Victoria 5% 1945-75 | 99 | 5 | 1 | 0 | 5 | 0 | 0 |
| West Australia 5% 1945-75 | 98 | 5 | 2 | 0 | 5 | 2 | 6 |
| **Corporation Stocks.** | | | | | | | |
| Birmingham 3% on or after 1947 or at option of Corporation | 64½ | 4 | 13 | 0 | — | | |
| Birmingham 5% 1946–56 | 105 | 4 | 15 | 3 | 4 | 15 | 0 |
| Cardiff 5% 1945–65 | 103 | 4 | 17 | 0 | 4 | 16 | 6 |
| Croydon 3% 1940–60 | 71½ | 4 | 4 | 0 | 4 | 16 | 0 |
| Hull 3½% 1925–55 | 77½ | 4 | 10 | 4 | 5 | 0 | 0 |
| Liverpool 3½% Redeemable at option of Corporation | 75½ | 4 | 13 | 0 | — | | |
| Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn. | 54½xd | 4 | 12 | 0 | — | | |
| Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn. | 64½xd | 4 | 13 | 0 | — | | |
| Manchester 3% on or after 1941 | 64½ | 4 | 13 | 0 | — | | |
| Metropolitan Water Board 3% 'A' 1963–2003 | 65½ | 4 | 12 | 0 | 4 | 12 | 6 |
| Metropolitan Water Board 3% 'B' 1934–2003 | 66 | 4 | 11 | 0 | 4 | 12 | 6 |
| Middlesex C. C. 3½% 1927–47 | 83½ | 4 | 3 | 9 | 4 | 17 | 0 |
| Newcastle 3½% Irredeemable | 74 | 4 | 14 | 6 | — | | |
| Nottingham 3% Irredeemable | 64½ | 4 | 13 | 0 | — | | |
| Stockton 5% 1946–66 | 101 | 4 | 19 | 0 | 4 | 19 | 0 |
| Wolverhampton 5% 1946–56 | 103 | 4 | 16 | 6 | 4 | 19 | 0 |
| **English Railway Prior Charges.** | | | | | | | |
| Gt. Western Rly. 4% Debenture | 82 | 4 | 17 | 6 | — | | |
| Gt. Western Rly. 5% Rent Charge | 100 | 5 | 0 | 0 | — | | |
| Gt. Western Rly. 5% Preference | 96 | 5 | 4 | 0 | — | | |
| L. & N. E. Rly. 4% Debenture | 75½ | 5 | 6 | 0 | — | | |
| L. & N. E. Rly. 4% Guaranteed | 72 | 5 | 11 | 0 | — | | |
| L. & N. E. Rly 4% 1st Preference | 62 | 6 | 9 | 0 | — | | |
| L. Mid. & Scot. Rly. 4% Debenture | 80 | 5 | 0 | 0 | — | | |
| L. Mid. & Scot. Rly. 4% Guaranteed | 79 | 5 | 1 | 0 | — | | |
| L. Mid. & Scot. Rly. 4% Preference | 72 | 5 | 11 | 0 | — | | |
| Southern Railway 4% Debenture | 80¼ | 5 | 0 | 0 | — | | |
| Southern Railway 5% Guaranteed | 99 | 5 | 1 | 0 | — | | |
| Southern Railway 5% Preference | 91⅛ | 5 | 9 | 0 | — | | |

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## PUBLIC NOTICES.

### THE LONDON ASSOCIATION OF ACCOUNTANTS

(LIMITED BY GUARANTEE).

DESIGNATION OF MEMBERS. "CERTIFIED ACCOUNTANT."

EXAMINATIONS, DECEMBER, 1928.

The following are the dates for the next Examinations of the above Association :—

PRELIMINARY EXAMINATION :
Tuesday and Wednesday, 4th and 5th December.

INTERMEDIATE EXAMINATION :
Tuesday and Wednesday, 4th and 5th December.

FINAL EXAMINATION :
Tuesday, Wednesday and Thursday, 4th, 5th and 6th December.

Each Examination commences at 10 a.m. on the first day.

Persons desiring to present themselves for examination must give notice to the Council not later than 1st October, 1928.

Full particulars and forms of entry may be obtained from the Secretary, 50, Bedford-square, London, W.C.1.

By Order of the Council.
J. C. LATHAM,
Secretary.

### CAMBRIDGESHIRE.

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A form of application will be sent on receipt of a stamped addressed foolscap envelope. Applications must be received not later than 10th September, 1928.

ASHLEY TABRUM,
Clerk of the Peace.

County Hall,
Cambridge.
24th July, 1928.

### BANKRUPTCY ACTS, 1914 AND 1926.

VACANCY IN OFFICIAL RECEIVERSHIP.

The Board of Trade are prepared to receive from Local Practitioners in Law or Accountancy, applications for the appointment at an early date of an Official Receiver in Bankruptcy for the districts of the County Courts of Hereford and Leominster, in place of Colonel Scobie, who has resigned his appointment. The appointment will be fee-paid and will carry no pension rights.

Applications, with such testimonials as may be available, should be made in writing, and addressed to the Inspector-General in Bankruptcy, Board of Trade, Great George-street, London, S.W.1.

UNIVERSITY of London.—The Senate invite applications for the University Readership in English Law tenable at London School of Economics. Salary £600 a year. Applications (12 copies) must be received not later than first post on 1st October, 1928, by the Academic Registrar, University of London, S.W.7, from whom further particulars may be obtained.

## APPOINTMENTS VACANT.

UNADMITTED managing clerk wanted for small office, to conduct matters, if able, in all branches. Not under 30 or over 45.—Apply, naming references and salary, to P.D., Box 501, c/o The Solicitors' Journal, 29, Breams-buildings, E.C.4.

CO-OPERATIVE, legal and financial agency desires Canvasser in London and throughout England to obtain associate listings in law work, to be forwarded from the United States. Commission will well pay the work undertaken. Applicant should be able to discuss with English solicitors the matter of handling technical, estate and law matters. No small collections.—Address, Lawyer and Banker Company, 711, Hammond-bldg., Detroit, Mich., U.S.A.

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WANTED, Young, Competent, General Law Clerk (typist), possessing good bass voice to combine lay clerkship at choir school (C. of E.), with work in solicitor's office. West Midlands. Country. Full particulars to "N & M.," Box 487, Solicitors' Journal, 29, Breams-buildings, E.C.4.

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LONDON firm of Solicitors in old-established moderate practice require shortly assistant solicitor or admitted managing clerk for conveyancing, trust and probate work, capable of working without supervision. Prospects if satisfactory.—Write, with full particulars, references, age and salary required, to "H," Box 463, c/o Solicitors' Journal, 29, Breams-bldgs, E.C.4.

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SOLICITOR (admitted) desires position with a small salary; view to practical experience and ultimate partnership.—A.C.M., Box 507, Solicitors' Journal, 29, Breams-buildings, E.C.4.

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SOLICITOR (44), LL.B., Cantab, desires temporary appointment of legal or secrctarial character. Would act as assistant or locum in country conveyancing and general practice; south.—Write, "T.T.," Box 456, c/o Solicitors' Journal, 29, Breams-buildings, E.C.4.

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### EX-OFFICERS AND OTHER RANKS.

THE Proprietors of The Solicitors' Journal have placed this space at the disposal of THE BRITISH LEGION, OFFICERS' ASSOCIATION, EMPLOYMENT BUREAU, 3-4, Clement's Inn, Strand, London, W.C.2 (Telephone: Holborn 5769), to whom all replies should be addressed, quoting number of advertisement, date of insertion, and the name of this paper.

MOTOR Sales Manager, 10 years' London experience, sales, distribution, service, seeks post where untiring energy, practical knowledge and first-class education could be utilised; linguist; married. Dis. 190

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*Continued on page xii.*

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*Continued from page xi.*

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